

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Harry Feigen	Team: Squad #4	CCRB Case #: 201501154	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 12/22/2014 7:00 AM	Location of Incident: § 87(2)(b)	Precinct: 81	18 Mo. SOL 6/22/2016	EO SOL 6/22/2016	
Date/Time CV Reported Thu, 02/12/2015 10:45 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 02/18/2015 2:42 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. LT Barbara Fischer	00000	920284	081 PCT
2. An officer			ESS 08
3. Officers			081 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Conrad Narcisse	07812	948103	081 PCT
2. POM Jonathan Thomas	09859	948146	081 PCT
3. DTS Charles Steiger	4289	939527	ESS 07
4. DTS Thomas Whalen	07869	902593	ESS 08

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: Officers entered and searched § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B. An officer	Force: An officer struck § 87(2)(b) with a blunt instrument.	§ 87(2)(b)
C. LT Barbara Fischer	Discourtesy: Lt. Barbara Fischer spoke rudely to § 87(2)(b)	§ 87(2)(b)

## Case Summary

On February 12, 2015, § 87(2)(b) filed this complaint with IAB by phone, generating IAB log number 15-3850. The case was received at the CCRB on February 22, 2014.

On December 22, 2014, at approximately 7:00 a.m., § 87(2)(b) was asleep in her apartment, which is located on § 87(2)(b) in Brooklyn. § 87(2)(b) was in her bedroom with her boyfriend, § 87(2)(b). Her son, § 87(2)(b) was asleep on a couch in the living room; her brother § 87(2)(b) was asleep in a second bedroom; and her other son, § 87(2)(b) was in a third bedroom with his girlfriend, § 87(2)(b) and their three children.

The front door of the apartment was broken in, and several ESU officers entered the living room (**Allegation A**). An unidentified officer struck § 87(2)(b) in the face twice with a hard object (**Allegation B**), and he was then brought to the dining room. The officers went into the rest of the rooms in the apartment, and brought all of the occupants out to the dining room. While they were waiting there, Lt. Barbara Fischer asked § 87(2)(b) about his age and arrest history. When § 87(2)(b) refused to answer, Lt. Fischer said, "I'm only gonna ask you one fucking more time. What were you arrested for?" (**Allegation C**).

§ 87(2)(b) and § 87(2)(b) were then brought to the 81<sup>st</sup> Precinct stationhouse, and charged with criminal possession of a controlled substance.

## Mediation, Criminal, and Civil Histories

- This case was not suitable for mediation, due to § 87(2)(b)'s arrest.
- § 87(2)(b)'s criminal case relating to this incident is still open. Her next court date is § 87(2)(b) (01 Board Review). § 87(2)(b) has no prior arrests on her record.
- A notice of claim request was submitted to the Comptroller's office on June 15, 2015. It will be added to the case file upon its receipt.

## Civilian and Officer CCRB Histories

- § 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)
- § 87(2)(b)  
§ 87(2)(b)
- Lt. Fischer has been a member of service for 17 years. She has 11 previous discourtesy allegations on her record, one of which has been substantiated. Of the others, five were unsubstantiated, two were unfounded, and three were closed because the cases truncated.

## Findings and Recommendations

### Explanation of Subject Officer Identification

§ 87(2)(b) was alone in the living room when the ESU officers entered the apartment, and he claimed to be asleep before the first alleged strike to his head (02 Board

Review). Upon being struck, he opened his eyes, but he could not see the faces of any of the officers around him, nor could he describe them in any way whatsoever, as the room was dark at the time. He claimed he was struck a second time in the head immediately after the first strike, but he again could not say which officer did this, or whether it was even the same officer who hit him the first time.

Det. Thomas Whalen and Det. Charles Steiger were on the ESU squad that initially entered and secured § 87(2)(b)'s apartment, and both were assigned to bunkers, meaning they would be equipped with ballistic shields and would be among the first group of officers to enter the apartment. Neither officer had any recollection of the incident, however. Neither recognized § 87(2)(b) upon being shown a picture of him, neither recalled any sort of altercation with any of the civilians inside of the apartment, and neither recalled any force that was used either by themselves or any other officers against § 87(2)(b) (03 Board Review and 04 Board Review, respectively).

§ 87(2)(g)

Given § 87(2)(b)'s inability to describe which officer or officers struck him in the head, and the lack of recollection from multiple officers who would have been present at the time of the allegation, the investigation was unable to determine which officer is the subject of **Allegation B**. Thus, it is pleaded against an officer from Squad 8 of the ESU command.

#### **Allegations not pleaded**

- Property damage, Guns pointed – Neither allegation is pleaded, as they are both standard procedure when executing a search warrant, and the officers in this case had a valid search warrant (05 Board Review).

#### **Allegation A: Abuse of Authority – Officers entered and searched § 87(2)(b) in Brooklyn.**

It is undisputed that officers from ESU Squad 8 and the 81<sup>st</sup> Precinct entered and searched § 87(2)(b) in Brooklyn, on December 22, 2014. It is also undisputed that the officers did so pursuant to search warrant number § 87(2)(b), which was valid and active at the time. § 87(2)(g)

As discussed in the officer identification section, the investigation could not determine which officer was the subject of this allegation. § 87(2)(g)

It is undisputed that Lt. Fischer and PO Conrad Narcisse stood in the living room with all of the apartment's occupants while they were preparing to transport the civilians to the 81<sup>st</sup> Precinct stationhouse. § 87(2)(g)

§ 87(2)(g)

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[REDACTED]

[REDACTED]

[REDACTED]

§ 87(2)(g) there are eleven previous discourtesy allegations made against her, § 87(2)(g) One of these allegations was substantiated, and the majority of the others were either unsubstantiated or closed due to truncation. Furthermore, all but one of these allegations are concentrated in the past eight years of Lt. Fischer's 17 year career.

§ 87(2)(g)  
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Team: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date